

§ 572.120

24 CFR Ch. V (4–1–00 Edition)

deadline in paragraph (a)(1) of this section on a per-program or per-unit basis if the Field Office determines that all program activities will be completed in accordance with the timing requirements of § 572.210(f) (including any extension granted under § 572.210(f)).

(b) *Form of ownership.* (1) Forms of ownership interests acquired by eligible families under this part may include fee simple ownership (including condominium ownership), cooperative ownership, or another form of ownership interest proposed and justified by the applicant and approved by HUD. HUD will not approve other forms of ownership that would substantially limit the ability of homeowners to realize financial appreciation in the value of their homes as determined by HUD. The type of ownership interest must be consistent with any applicable State (or territorial), local, or tribal law.

(2) The ownership interest may be subject only to:

(i) The restrictions on resale required or approved under § 572.130;

(ii) Mortgages, deeds of trust, or other liens or instruments securing the eligible family's purchase money financing as approved by the recipient; or

(iii) Any other restrictions or encumbrances that do not impair the good and marketable nature of title to the ownership interest except as otherwise approved by the recipient. In approving the terms of an eligible family's purchase money financing or any other encumbrances on the property under paragraphs (b)(2)(ii) and (iii) of this section, the recipient shall not approve financing terms that do not comply with the affordability standards in § 572.120, or mortgage terms and conditions or other encumbrances that in effect constitute resale restrictions that would not be approved by HUD under this part.

(3) Mutual housing is eligible only to the extent it provides for the transfer of ownership interests to eligible families.

(c) *Transfer of multi-unit properties.* (1) In the case of a two-to-four unit property, only property that may be divided so that an ownership interest in each unit may be acquired by an eligi-

ble family is eligible. HUD may grant an exception to this requirement on a program-by-program basis when it determines that such an exception will serve to further the purposes of the HOPE 3 program.

(2) HUD Headquarters will consider and may approve an exception under the following circumstances:

(i) The reasonably projected net rental income will be included in the determination of the appraised value of the property at the time of the homebuyer's purchase;

(ii) The rent charged by the owner will not exceed the Fair Market Rent established by HUD for the area;

(iii) The recipient will provide the homebuyer with counseling and training in property management, and will approve the form of lease used by the homebuyer; and

(iv) The recipient will include the family's potential net rental income in calculating the family's initial affordability in accordance with § 572.120 of this part.

[58 FR 36526, July 7, 1993, as amended at 61 FR 48797, Sept. 16, 1996]

§ 572.120 Affordability standards.

(a) *Initial affordability.* (1) The monthly expenditure for principal, interest, taxes, and insurance by an eligible family that is required under the financing both for the acquisition and for the rehabilitation in accordance with § 572.100(d) of a unit (whether the required rehabilitation occurs before or after the family takes title) must be not less than 20 percent and not more than 30 percent of one-twelfth of the annual income of the family used for the purpose of determining eligibility under § 572.110(a). (For the purpose of determining affordability of the family, the recipient may, at its option, adjust downward the annual incomes of eligible families using reasonable standards and procedures consistently applied.) HUD may approve a justified request for a floor lower than 20 percent to avoid undue hardship to families, such as where the cost of utilities is high.

(2) The 30 percent cap on monthly payments includes closing costs only if closing costs are included in the costs

of principal and interest, or are otherwise required to be paid by the homeowner over time after acquisition.

(3) Applicants are encouraged to consider the additional monthly costs of utilities and other monthly housing costs, such as condominium and cooperative fees, in determining whether the family can afford to purchase a unit.

(b) *Continued affordability.* The recipient must develop a plan demonstrating reasonable efforts to ensure continued affordability by homeowners in the eligible property. Financing that would impair the continued affordability of the property for homebuyers, such as a mortgage that is not fully amortizing (e.g., a "balloon" mortgage) may not be used. The plan should take into account such program features as long-term financing at reasonable terms, energy conservation, and improvements that will entail low-cost maintenance.

[58 FR 36526, July 7, 1993, as amended at 60 FR 36018, July 12, 1995]

§ 572.125 Replacement reserves.

(a) *Purpose.* A single replacement reserve may be established for the homeownership program only if HUD determines it is necessary to prevent severe financial hardship to families caused by the failure of a major system or component of the property that would render the unit substandard. Initially, the reserve must be justified by the applicant and approved by HUD as part of the program budget in the application or an amended application.

(b) *Need for reserve account.* In determining the need for a replacement reserve, the applicant or recipient must demonstrate that the financial status of eligible families is insufficient to meet the needs for which the reserve is established, and that the amount proposed for the reserve is reasonable, taking into account the following factors:

(1) The size of the implementation grant and the amount of matching contributions;

(2) The availability of insurance, and the home maintenance and repair capabilities of the families; and

(3) The condition and age of the properties and each of their major systems and components (including at least the

heating, plumbing, and electrical systems, the roof, foundation, windows, exterior walls, and common area, if any).

(c) *Drawdown of reserve funds.* Replacement reserve funds may only be drawn down under the Cash and Management Information System when specifically needed to assist a homeowner. At time of program closeout, all funds approved for a replacement reserve may be drawn down to fund a reserve account. The account may not exceed six years estimated replacement cost needs for the properties transferred under the homeownership program.

(d) *Administration of the reserve account.* The recipient must identify the entity that will administer the replacement reserve account at time of program closeout. The entity responsible for administering the account must be bonded and approved by HUD. The account must be interest bearing, if possible, and interest earned thereon must be used for the purposes for which the account is established. Unused funds at the end of the term of the account must be treated as program income in accordance with § 572.135(d).

§ 572.130 Restrictions on resale by initial homeowners.

(a) *Right to transfer.* A homeowner may transfer the homeowner's ownership interest in the unit, subject only to the right to purchase under paragraph (b) of this section; the requirement for the purchaser to execute a promissory note, if required under paragraph (d) of this section; and the limitation on the amount of sales proceeds a family may retain upon sale within the first six years, as required under paragraph (c) of this section.

(b) *Right to purchase.* (1) Where a cooperative has jurisdiction over the unit, it has the prior right to purchase the ownership interest in the unit from the initial homeowner for the amount and on the terms specified in a firm contract between the homeowner and a prospective buyer. The cooperative association has 10 days after receiving notice of the firm contract to decide whether to exercise its right and 60 additional days to complete closing of the purchase.